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IN THE SENATE OF THE UNITED STATES.

JANUARY 30, 1896.—Ordered to be printed.

Mr. PETTIGREW, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany S. 1570.]

The Committee on Indian Affairs, to whom was referred the bill (S. 1570) for the relief of Joseph Schwarz, having considered the same, submit the following report:

It has been ascertained that the said Joseph Schwarz, of Sioux Falls, S. Dak., by direction of the Office of Indian Affairs, prepared plans and estimates for a \$35,000 Indian school building at Flandreau, S. Dak., to be built of brick; that stone was substituted for brick in the advertisements calling for bids, and in consequence the bids were so far above the estimates that all were rejected, together with the plans.

For his labor Mr. Schwarz has received no compensation, and the bill under consideration provides for reasonable payment to him for work executed under the orders of the Indian Office.

Your committee therefore report back the said bill (S. 1570) and recommend that it do pass.

DEPARTMENT OF THE INTERIOR,  
*Washington, January 24, 1896.*

SIR: I have the honor to transmit herewith copy of a communication of the 23d instant, from the Commissioner of Indian Affairs, in reply to your letter of 20th instant addressed to him, relative to S. 1570 "for the relief of Joseph Schwarz."

This bill provides for the payment to Mr. Schwarz of the sum of \$440 for making plans and estimates for an Indian School at Flandreau, in the State of South Dakota.

The answer of the Bureau of Indian Affairs was passed through this office for its information only, and is forwarded to you without any expression of opinion on the subject by the Department, as its views were not requested.

Very respectfully,

HOKE SMITH, *Secretary.*

The CHAIRMAN COMMITTEE ON INDIAN AFFAIRS,  
*United States Senate.*

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,  
*Washington, January 23, 1896.*

SIR: Under date of January 20, 1896, this office received the following communication from Hon. R. F. Pettigrew, United States Senate:

"I inclose Senate bill 1570, for the relief of Joseph Schwarz. Will you furnish me the facts in relation to this case?"

The bill referred to by the Senator reads as follows, viz:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the United States Treasury not otherwise appropriated, the sum of four hundred and forty dollars to Joseph Schwarz, of Sioux Falls, South Dakota, for making plans and estimates for an Indian school at Flandreau, in the State of South Dakota."*

In reply thereto I respectfully submit herewith a report setting forth "the facts in relation to this case," for such action as the Department may deem right and proper in the premises.

Under date of June 19, 1891, the Department, upon the recommendation of this office, granted authority for this office to employ a competent architect to prepare plans and specifications and to supervise the erection of the Indian industrial school building at Flandreau, S. Dak., at a compensation of  $2\frac{1}{2}$  per cent of the contract price of the building (which must be less than \$25,000); said compensation to be paid only after the approval by the Department of the plans and specifications that may be submitted.

Under date of June 23, 1891, this office recommended to the Department that said letter of June 19, 1891, be so modified as to remove the limit of \$25,000 as the cost of said school building, so as to allow the compensation to be paid the architect for plans and specifications furnished and for services of inspection, to be made in proportion as specified in Department letter dated May 2, 1891, in view of the fact that the appropriation for said school was secured by Senator Pettigrew, who stated that it was his desire to have the whole of the \$50,000 appropriated expended in the erection of buildings, and that he would hereafter secure sufficient appropriations for the support of the school. The "proportion" specified in Department letter of May 2, 1891, was in the case of the employment of an architect to prepare plans, specifications, etc, and supervise erection of buildings at the Chilocco Indian Industrial School, Indian Territory, and was as follows:

Where buildings cost \$25,000 or less,  $2\frac{1}{2}$  per cent of contract price of buildings.  
Where buildings cost over \$25,000 and less than \$30,000,  $2\frac{1}{4}$  per cent of contract price.

Where buildings cost over \$30,000 and less than \$40,000, 2 per cent of contract price.

Where buildings cost over \$40,000 and less than \$50,000,  $1\frac{1}{2}$  per cent of contract price.

Where buildings cost over \$50,000,  $1\frac{1}{4}$  per cent of contract price.

Under date of July 2, 1891, the Department replied to office letter of June 23, 1891, as follows:

"I acknowledge the receipt of your communication of 23d ultimo, wherein you refer to Department action of 19th ultimo, authorizing your office to employ an architect to prepare plans and specifications for the proposed Indian school building at Flandreau, S. Dak., in which the limit of the cost of the building is placed at \$25,000, and to recommend that the authority in question be so modified as to remove this limit and allow the whole of the \$50,000 appropriated for the buildings and the support of the said school to be expended in the erection of the buildings, and that the compensation of the architect be fixed on the basis of Department letter of May 2, last.

"Your recommendation is disapproved to extent asked. If estimates and plans are made not to exceed \$35,000, they may be approved."

Under date of July 9, 1891, Mr. Joseph Schwarz, of Sioux Falls, S. Dak., was informed that authority had been granted and he was authorized to prepare plans and specifications for buildings at Flandreau, S. Dak., to be used as an Indian boarding school, in accordance with suggestions contained in office letter of 3d instant, said buildings to cost not exceeding \$35,000.

Said Schwarz was further informed that he would be allowed 2 per cent of the contract price of the buildings for his work in preparing plans and specifications and for superintending their construction, payment therefor being conditional upon the acceptance of the plans and specifications by the Department.

After advertising for bids for the erection of the buildings, in accordance with the plans and specifications prepared by Mr. Schwarz under the above-mentioned authority, the lowest bid received was for \$55,000, which proved that he had not complied with the instructions of this office. The plans and specifications prepared by him were not accepted, and new bids were invited on plans, etc., prepared by this office; and the contract subsequently entered into with James H. Owen for the erection of the buildings was based on the said plans and specifications prepared in this office.

Under date of June 29, 1892, Mr. Schwarz addressed a communication to this office, requesting to be informed relative to the superintendency of the school buildings to

be erected at Flandreau, S. Dak., by James H. Owen, of Pierre, S. Dak., under contract.

Under date of July 11, 1892, this office advised Mr. Schwarz that he had been, under date of July 9, 1891, authorized to prepare plans and specifications for the Flandreau school, the buildings to cost not exceeding \$35,000; that he was to receive 2 per cent of the contract price of the buildings for his work in preparing plans and specifications and for supervising the construction of the buildings, payment therefor being conditional upon the acceptance of his plans and specifications; that after advertising for bids for the erection of the buildings in accordance with his plans and specifications the lowest bid received was for \$55,000, which proved that he had not complied with office instructions; that his plans, etc., were not accepted; that the new bids invited, and the contract entered into with James H. Owen for the erection of the buildings, were based on plans, etc., prepared by this office; that nothing was therefore due him for the preparation of plans and specifications; that in case he desired to be employed as architect, to supervise the construction of buildings at Flandreau under Mr. Owen's contract, he might submit a proposition setting forth what compensation he was willing to accept, and that said proposition would be duly considered.

Under date of August 18, 1892, Mr. James H. Owen, the contractor, requested to be informed who had authority to inspect the foundations and buildings, as he would soon be ready to put up the brick walls.

In reply to Mr. Owen's said letter, this office, under date of August 27, 1892, instructed W. V. Duggan, superintendent of the Flandreau Indian Industrial School, South Dakota, as follows:

"In connection with the inspection provided for by contract of this office with James H. Owen, dated June 7, 1892, of buildings to be erected thereunder, you are hereby authorized to employ as inspector, in connection with yourself, Mr. Joseph Schwarz, or any other competent person, to perform such duty, whenever required by the terms of said contract, and to pay such inspector a sum not exceeding \$10 per diem, while inspecting, as required by the stipulations of the contract, a copy of which was sent to Mr. Owen June 23, last."

Under the authority cited above, the superintendent of said Flandreau school employed Mr. Joseph Schwarz as inspector, and upon his (Schwarz's) certificates, payments were made to Mr. Owen, the contractor, from time to time as the work progressed. Payment was also made by the superintendent of said school to Mr. Schwarz for services rendered by him as inspector, at the rate of \$10 per day, as per instructions given said superintendent in office letter of August 27, 1892, referred to above.

A copy of Senator Pettigrew's letter and Senate bill 1570 are herewith inclosed.

Very respectfully,

D. M. BROWNING, *Commissioner.*

THE SECRETARY OF THE INTERIOR.

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